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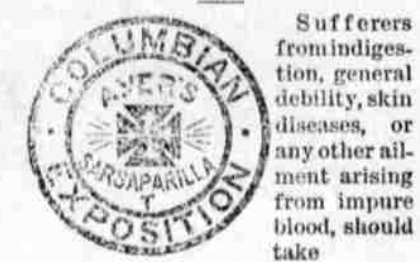
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	Cases.
G H Mamm & Co.'s extra dry.....	30,831
Pommery & Greno.....	11,798
Moet & Chandon.....	9,608
Heidsieck & Co., (dry Monopole).....	7,501
Louis Roederer.....	3,438
Ruinart.....	3,136
Perrier Jouet.....	3,286
Irroy & Co.....	1,785
Vve. Clicquot.....	2,378
Bouche Sec.....	992
Delbeck & Co.....	728
St. Marcoux.....	334
Krug & Co.....	270
Chas. Heidsieck.....	355
Various.....	5,419

Total..... 81,859

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ORIGIN OF HAWAIIAN CONSTITUTIONS

GUARANTEES OF LIBERTY.

HISTORY OF THE DOCUMENT BY
CHIEF JUSTICE JUDD.

It Was a Missionary Suggestion—
Framed on the Great Anglo-
Saxon Models.

Ladies and Gentlemen:

It must be very gratifying to every one interested in education to know that the energetic General Secretary of the Young Men's Christian Association, under whose auspices we meet tonight, has established a course of lectures on popular subjects for the public entertainment and instruction. This course has been successful thus far and though the subject given me, "The Constitutions of Hawaii," may not seem to be one which would interest the public generally, I shall endeavor to make it so.

A constitution, in the sense in which it is used in my subject, is the organic law of the State. It is the system of fundamental principles, maxims, laws or rules embodied in written documents or established by prescriptive usage for the government of the nation. These principles may be amended, enlarged or repealed as a nation progresses and, therefore, the history of the Constitution of any one nation or state may be said to be very largely the political history of that nation or state. This is emphatically true of Hawaii. Hawaii has had five written constitutions since the death of Kamehameha the First, the conqueror who consolidated all the islands of this archipelago under his sole sway. These are the Constitutions of 1840, 1852, 1864, 1887 and the present one of the new Republic of Hawaii promulgated in 1894. Those of 1840 and 1852 were promulgated and adopted peacefully during the reign of Kamehameha III. That of 1864 was forced on the people by a coup d'etat of Kamehameha V. That of 1887 was forced by the people from Kamehameha V. Both of these revolutions were successful. It would be inaccurate to say that Hawaii had no constitution previous to the promulgation of its first written constitution in 1840 by Kamehameha III. There existed here certain usages and principles regulating society in its various aspects, political, social, religious and economic. These formed the Constitution of Hawaii—unwritten certainly, and somewhat elastic—but none the less a constitution. It was not a state of anarchy and chaos that existed here. The United Kingdom of Great Britain and Ireland has no written constitution, but it has its constitution. They are defined as "not formulated in any one document or set of documents, but they are the gradual development of the political intelligence of the English people as embodied in concessions forced from unwilling sovereigns, in the results of various revolutions, in numerous fundamental enactments of parliament and in the established principles of the common law." All patriotic Englishmen point with pride to Magna Charta, the Habeas Corpus Act and the Bill of Rights. The people of the United States are heirs to their rich inheritance, and we in Hawaii share in their beneficent provisions. These glorious principles are not entailed to the sons of England. No law of primogeniture can deprive us of our share of this heritage, and they have been incorporated into the various constitutions of Hawaii, thanks to the Anglo-Saxon character of the civilization, both religious and commercial, which has brought these islands to their present status.

Kamehameha I, died in 1819. The forty-one years that had elapsed since 1778 when Captain Cook discovered these islands had brought some foreign commerce to these shores, and with it some knowledge of civilization. Sandalwood was then the main product of these islands, and was its medium of exchange. It was cut in the mountains, brought down on men's shoulders to the shores and then bartered by the king and chiefs for clothing, hardware and gewgaws. Kamehameha I. bought small vessels, guns and rum mostly. But as the sandalwood went to China the vessels brought back crepe shawls, silks, camphor trunks, etc., which delighted the chiefs. Don Francisco De Paulo Marin, called "Manini," brought valuable trees, plants and vegetables to these islands in 1791. The next year Vancouver brought other plants and in 1793 cattle and sheep. Commerce gradually increased. There was some trading with Boston and some little good done, but for the most part the foreign settlers of these islands were immoral and worthless. The most intelligent stayed here for what pecuniary profit they could get, the worst stayed as idlers living upon the chiefs, receiving much for which they gave little. No printing press, no school house, no hospital was thought of for Hawaii by these settlers. But the missionaries came in 1820, reduced the Hawaiian language to writing, published books, established schools, preached the gospel, taught morality, built churches, encouraged agriculture, softened the people, enlarged their ideas, won the confidence of the chiefs and people, stood between them and the unprincipled foreigner and warded off unjust claims. But as the foreign population increased and ships visited more frequently and consuls from the great powers were appointed, generally from among previous residents who were vigilant to interfere for the redress of both real and fancied wrongs done to their citizens, it became evident that there must be written laws and a constitution. Heretofore the chief would proclaim regulations as he marched through the streets. Kaahumanu, the Queen Regent during the minority of Kamehameha III, had, in the last tour she made of the group, proclaimed her well-known edict concerning marriage. This was in 1830-1 and made valid the union of couples then subsisting, without further ceremony. Complications with foreigners increased. The troubles between licentious crews of ships and the chiefs, who had by that time imbibed principles of morality from the missionaries, which oftentimes resulted in serious riots, led the Regent and her Council of Chiefs to write out and publish laws against murder, theft, adultery, rum-selling and gambling. This was in December, 1827. But it was not until 1840 that a law was passed by the Council of King and Chiefs that thereafter no law of the kingdom should take effect without having been first printed and made public.

I don't suppose the Hawaiian chiefs had of themselves any conception of the advisability of a constitution. To them, laws regulating human conduct, especially of all persons below them in rank, natives and foreigners, would be sufficient. But they must have been advised by Mr. Richards, who delivered lectures on political economy to the king and chiefs and others at Lahaina, that it would be graceful and appropriate for the king and chiefs to formulate the rules and maxims in accordance with which the powers of sovereignty should be habitually exercised. This is in fact what Judge Cooley defines a constitution to be. So the First Constitution of Hawaii was drafted. The Bill of Rights

was promulgated June 7, 1839, at Lahaina, Maui, where the council was held, and the entire Constitution at Honolulu on the 8th October, 1840. It was a great step for those haughty chiefs to take, for it defined and therefore curtailed the hitherto unlimited power of the king and the very great authority of the chiefs over their tenants who were almost peons or slaves. It is a simple instrument, couched in crude language, especially in the English translation. But it contains all the essential guarantees of liberty which had been wrenched from unwilling sovereigns of England in the Magna Charta, the Bill of Rights and the Habeas Corpus Act. It opens with these grand words, "God hath made of one blood all nations of men to dwell on the earth in unity and blessedness." This taught the brotherhood of man and its plain effect was to lessen the jealousy of the natives against foreigners. "God hath also bestowed certain rights alike on all men and all chiefs and all people of all lands." It next secured to every one life, limb, freedom from oppression, the earnings of his hands and the productions of his mind. In this last phrase we find the foundation for the copyrighting of literary productions and for the patenting of useful inventions.

The next paragraph forbids class legislation and secures equality of taxation.

A most important provision to the foreigners settled here secured "protection to the persons of all the people, together with their lands, their building lots (house lots in the towns) and all their property, so long as they conform to the laws of the Kingdom, and nothing whatever shall be taken from any individual except by express provision of the law." Alexander says this Act (the Constitution) "produced a feeling of security unknown before and formed the first step in establishing individual property in land."

In the times preceding this no Hawaiian's property was safe. The chief might send his head man on a foraging expedition and when he saw a pig that would suit he would cut it and then it became the chief's. Tenants on any lands could be dismissed summarily by the chiefs who held them, by the word "Hemo," (off). After the Bill of Rights, follows what is therein called the "Constitution," but the Bill of Rights is republished as the first part of the Constitution.

Section I. reads: "No law shall be enacted which is at variance with the word of the Lord Jehovah, or with the general spirit of His word." This did not establish a theocracy, as some would have it, but, as the Bible was the only text book for regulation of moral conduct known to them, they were not far from wrong in thus expressing their idea. Its manifest object was to reject idolatry as the state religion and recognize Monotheism as the true religion.

Section II. "All men of every religion shall be protected in worshipping Jehovah and serving Him, according to their own understanding, but no man shall be punished for neglect of God, unless he injures his neighbor or brings evil on the kingdom." Religion here meant the Christian religion, both Roman Catholic and Protestant. They knew no other forms except their own ancient discarded idol worship. This secured religious toleration and was a much needed declaration, for Kaahumanu had persecuted the Romanists as worshippers of pictures and images and expelled the priests. They were finally brought back to the islands at the point of French bayonets.

Section III. This article provided that the law shall redress wrongs, public and private; and that no law should be passed for the benefit of some and to the injury of others.

Section IV. secured that no

one should be arbitrarily punished without proof of his offense, or without trial in the presence of his accusers. The accused to meet them face to face and be tried according to law.

Section V. disqualified any judge or juror, whether commoner or chief, from sitting to try his close friend or near relative. "And if after the imposing of punishment or an awarding of damages, it shall be discovered that any of the judges shall have acted corruptly to help his friend or to enrich himself, there shall be a new trial before impartial judges." This secured the right to a new trial for prejudice. Then follows an "exposition of the principles on which the present dynasty is founded." It recites that "Kamehameha First was the founder of the kingdom and to him belonged the land from Hawaii to Niuhau, though it was not his private property." "It belonged to the chiefs and people in common of whom Kamehameha I. was the head, and had the management of the land. Therefore it has not been nor is it now allowable to sell even the smallest portion of land without the king's consent." For many years aliens were not allowed to hold land.

"The supreme authority was in Kamehameha I. and is now in Kamehameha III. These only had the authority of the government up to this time, and all documents issued by them are valid and none other." This was inserted because some foreigners would claim that conveyances of land and other concessions signed by other chiefs bound the State.

"The kingdom is confirmed to Kamehameha III. and his sisters." He had no child and so it was provided that the heir to the throne should be the one appointed by him and the chiefs, during his lifetime; failing to make an appointment the appointment shall rest with the chiefs and the Representatives. Kamehameha III. left the kingdom by will to his nephew Alexander Liholiho, and he also adopted him and had him proclaimed as his successor in his lifetime.

The prerogatives of the king are then defined. He is declared to be the sovereign of all the people and all the chiefs. It declared him to be the chief of the army, to have direction of the government property, the taxes and the labor days. The entire able-bodied Hawaiian population were in those times required to give three days' labor a month to the king as representing the government. They worked on the roads, bridges and buildings and on whatever enterprise they were called upon to do. It went so far as to forfeit to the king the lands whose annual tribute was not paid. The king was Chief Justice of the Supreme Court and was to execute all laws, decrees and treaties. His prerogative was to make treaties with foreign powers and to receive foreign representatives. Also to make war in time of emergency, when time would not allow the calling of the chiefs together. He shall have the "say" (olelo) on all important questions which have not been assigned to others by the law.

It must be remembered that it was not long since the various islands were under the sway of other powerful chiefs. The conquests of Kamehameha had only lately reduced them under one government. The successors of many of these chiefs still survived and they were in occupancy of large estates and had hundreds of retainers who owed allegiance to them. So it was to emphasize in plain language the supremacy and prerogatives of the king. It is noticeable that he is not called the "Moi" or sovereign in any part of this ancient document, but his title throughout is "Ke 'Lii Nui," literally the "Big or principal Chief." There had occurred the conspiracies of Boki, Liliha and Kaomi in turn and there might be more, as great jealousy still existed among the chiefs as

against each other. Moreover, the king was then only 27 years old, and his former Premiers, Kaahumanu and Kinau, had died, as had also the great warriors Kalamoku and Hoapili and Kuanini (brother of Kaahumanu) all of whom had exercised great influence for good not only upon him personally, but upon the nation at large. Kamehameha III., his personal name being Kamehameha (Fixed-in-the-deep-blue-sky) was an amiable man of good and generous impulses, but rather weak especially in the control of his passion for drink. But he was quiet and unobtrusive in manner, never advancing or pushing any ultra scheme of his own. He listened to advice and was the most loyal of all the kings of Hawaii to his advisers and friends. Take it all in all he was the best king this people ever had. He never made use of his prerogatives to favor his own ends and never used money for vulgar or ostentatious display. I think it most remarkable that he gave so much up for the good of his people. In this Constitution and the later one of 1852 he gave rights to the people which they little dreamed of possessing and which many of them failed to appreciate. If he had let French brandy alone and had taken good care of his health he might have lived until today, for he would have been but 83 years old. If he had lived, under such a good king there is a strong probability that the form of government over us would still be that of a Constitutional Monarchy.

The next subject in this Constitution is that of the Kuhina Nui. It reads that the king shall appoint a chief of ability and rank who shall be his special Minister (Kanaka) and shall be called the Chief Minister (or Premier) of the kingdom. It recites the history of the office when Kaahumanu held this position with Kamehameha I. She had the power of life and death, of condemnation and acquittal or pardon, and Kamehameha perpetuated her authority under his son and successor, Kamehameha II. The Constitution declares that this office is perpetuated, and defines its powers. It was almost a dual kingship. "Everything appertaining to the government which the king wishes done shall be done by the Kuhina in the name of the king. All the declarations and acts of the government said and done by the Kuhina are the declarations and acts of the king. He shall see (collect) all the property of the government and pass it over to the king. The Kuhina Nui shall have the say, together with the king, in all important matters of the kingdom. The king shall not do anything without the knowledge of the Kuhina, nor shall the Kuhina do anything without the knowledge of the king; and if the king objects to his act that will end it. But all important matters which the king wishes to do personally he may do, but the Kuhina must know of it," and to know of it was to consent to it. I have not followed the published translation of this part of the Constitution, but I think I have conveyed the Hawaiian idea better in the translation above given. The power of the Kuhina Nui waned with the lessening strength of character of each successive incumbent. Kaahumanu was most powerful, even more so than the young king Kamehameha, whose regent she was during his minority. She died in 1832. Her successor Kinau, a daughter of Kamehameha I., exercised considerable influence and it was for good. On her death in 1838 Kekauluohi, niece of Kamehameha I., and mother of Lunalilo, succeeded—but she had not force of character to take much interest in public affairs. On her death in 1845 Keoni Ana (John Young), son of old Mr. Young, an English sailor who had become a companion in arms of Kamehameha I., was made Premier—a courtly gentleman.

(Continued on 4th page)